

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

----- X

**GLORIA CARTAGENA &
VICTOR RIVERA,**

Plaintiffs,

- against -

**THE CITY OF NEW YORK,
POLICE OFFICER REGINALD WILLIAMS
and JOHN DOE POLICE OFFICERS 1-3,**

Defendants.

COMPLAINT

08 CV 4601

**PLAINTIFFS DEMAND
A TRIAL BY JURY**

----- X

Plaintiffs, by their attorney, CARMEN S. GIORDANO, complaining of defendants, respectfully allege:

PRELIMINARY STATEMENT

1. Plaintiffs bring this action pursuant to 42 U.S.C. §1983 *et. seq.* and 42 U.S.C. §1981 for an incident of police brutality and deprivation of protected rights, including rights under the Fourth and Fourteenth Amendments to the U.S. Constitution, that transpired on or about October 21, 2007, when police officers employed by THE CITY OF NEW YORK, including defendant police officer REGINALD WILLIAMS, of the 43 Precinct used excessive force, assaulted and battered both plaintiffs, wrongfully detained, arrested and falsely imprisoned GLORIA CARTAGENAS, and further maliciously prosecuted GLORIA CARTAGENAS in Bronx County, New York.

2. On October 21, 2007, at approximately 3:05 a.m. at or about in front of 1633 Westchester Avenue in Bronx County, New York, defendants, including defendant police officer REGINALD WILLIAMS wrongfully stopped a motor vehicle in which plaintiff GLORIA CARTAGENA was a passenger and falsely accused plaintiff GLORIA CARTAGENAS of

driving that vehicle, when she was actually a passenger in such vehicle, falsely arrested plaintiff GLORIA CARTAGENAS for Operating a Motor Vehicle While Under the Influence of Alcohol and other false charges, while simultaneously criminally charging her husband plaintiff VICTOR RIVERA with driving the same vehicle at the same time.

3. Defendant police officer REGINALD WILLIAMS also assaulted and battered both Plaintiffs and fractured plaintiff GLORIA CARTAGENAS' arm and caused other injuries while wrongfully detaining and arresting both plaintiffs and referred to both plaintiffs as “fucking Puerto Ricans.” Plaintiff GLORIA CARTAGENAS is a 62 year old grandmother.

4. Plaintiff GLORIA CARTAGENAS was restrained, taken into custody and transported to the 43rd Precinct and thereafter Central Booking where she was wrongfully held and incarcerated for an extended period of time. While she was wrongfully arrested and detained, plaintiff GLORIA CARTAGENAS was denied immediate and appropriate medical care for her fractured arm and other injuries. Thereafter, and without probable cause, defendants, including defendant police officer REGINALD WILLIAMS further caused criminal charges to be filed against plaintiff GLORIA CARTAGENAS in Bronx County Criminal Court until such charges were ultimately dismissed.

JURISDICTION AND VENUE

6. This Court has federal question jurisdiction pursuant to 28 U.S.C. §1331 in that this action arises under 42 U.S.C. §1983 *et. seq.*, 42 U.S.C. §1981 and the Fourth and Fourteenth Amendments to the United States Constitution. This Court has jurisdiction over the state law claims pursuant to 28 U.S.C. §1367 and the doctrine of pendent jurisdiction, since the state claims arise from the same operative facts and are part of the same case or controversy.

7. Venue is proper in the Southern District of New York pursuant to 28 U.S.C.

§1391(b) and (c) because defendant THE CITY OF NEW YORK resides in this District. Additionally, all defendants are subject to personal jurisdiction in this District.

8. Prior to the commencement of this action, and within ninety days after the instant claim arose, plaintiffs caused a Notice of Claim in writing to be served upon the defendant THE CITY OF NEW YORK, by delivering to and leaving the same with the New York City Comptroller's Office, in like manner as the service of a summons in the District Court, which said Notice of Claim set forth the name and post office address of the plaintiffs and their attorney, the nature of, time when, place where, and manner in which the claims arose, and the items of damage and/or injuries claimed, or that might have been sustained, so far as it was practicable. Over thirty days have elapsed since the service of such Notice of Claim and the THE CITY OF NEW YORK has failed to settle or adjust this matter.

9. This action was commenced within one year and ninety days after the cause of action herein accrued.

THE PARTIES

10. At all relevant times, plaintiffs are and were residents of Bronx County, New York.

11. At all times relevant hereto, defendants, including defendant police officer REGINALD WILLIAMS and JOHN DOE POLICE OFFICERS 1-3, acted in their official capacities, and were employees, agents, or servants of the defendant THE CITY OF NEW YORK, acting under color of state law, within the meaning of 42 U.S.C. §1983 *et. seq.*

12. Defendant THE CITY OF NEW YORK was and is a municipal corporation organized and existing under and pursuant to the laws of the State of New York. At all relevant times, defendant THE CITY OF NEW YORK acted through its employees, agents and/or

servants, including the individually named defendants herein, who at all relevant times acted within the course and scope of their employment.

**AS AND FOR A FIRST CLAIM PURSUANT TO 42 U.S.C. §1983 BY PLAINTIFFS
GLORIA CARTAGENAS & VICTOR RIVERA AGAINST POLICE OFFICERS
REGINALD WILLIAMS & JOHN DOE POLICE OFFICERS 1-3**

13. Plaintiffs repeat and reallege each and every allegation contained in the preceding paragraphs as if fully set forth herein.

14. On or about October 21, 2007 in Bronx County, New York, defendants REGINALD WILLIAMS and JOHN DOE POLICE OFFICERS 1-3 acting intentionally, recklessly and/or with a deliberate indifference to the rights, life and liberty of plaintiffs GLORIA CARTAGENAS and VICTOR RIVERA, assaulted and caused physical and mental injuries to GLORIA CARTAGENAS and VICTOR RIVERA.

15. As a result of the foregoing, defendants, acting under color of state law, violated 42 U.S.C. §1983 *et. seq.*, and deprived plaintiffs GLORIA CARTAGENAS and VICTOR RIVERA of rights secured by the Constitution and laws of the United States and the State of New York including those rights protected by the Fourth and Fourteenth Amendments to the U.S. Constitution, their right not to be deprived of life, liberty and property without due process of law, and other rights, privileges and immunities guaranteed by the laws and Constitutions of the United States and the State of New York.

16. As a result of the foregoing, plaintiffs GLORIA CARTAGENAS and VICTOR RIVERA were caused to suffer grievous bodily injury, loss of liberty, substantial physical, emotional, mental and psychological pain, and were otherwise injured.

**AS AND FOR A SECOND CLAIM PURSUANT TO 42 U.S.C. §1983 BY
PLAINTIFF GLORIA CARTAGENAS AGAINST POLICE OFFICERS REGINALD
WILLIAMS & JOHN DOE POLICE OFFICERS 1-3**

17. Plaintiffs repeat and reallege each and every allegation contained in the preceding paragraphs as if fully set forth herein.

18. On or about October 21, 2007, defendants REGINALD WILLIAMS and JOHN DOE POLICE OFFICERS 1-3 acting without probable cause, intentionally, without justification and with deliberate indifference to the rights, life and liberty of GLORIA CARTAGENAS, falsely arrested and imprisoned GLORIA CARTAGENAS in the presence of her husband plaintiff VICTOR RIVERA.

19. As a result of the foregoing, defendants, acting under color of state law, violated 42 U.S.C. §1983 *et. seq*, and deprived GLORIA CARTAGENAS of rights secured by the Constitution and laws of the United States including those rights protected by the Fourth and Fourteenth Amendments, her right not to be deprived of life, liberty and property without due process of law, and other rights, privileges and immunities guaranteed by the laws and Constitutions of the United States and the State of New York.

20. As a result of the foregoing, GLORIA CARTAGENAS was caused to suffer grievous bodily harm, loss of liberty and life, substantial physical, emotional and psychological pain, and were otherwise injured.

**AS AND FOR A THIRD CLAIM PURSUANT TO 42 U.S.C. §1983 BY PLAINTIFF
GLORIA CARTAGENAS AGAINST POLICE OFFICERS REGINALD WILLIAMS &
JOHN DOE POLICE OFFICERS 1-3**

21. Plaintiffs repeat and reallege each and every allegation contained in the preceding paragraphs as if fully set forth herein.

22. On or about October 21, 2007 defendants REGINALD WILLIAMS and JOHN

DOE POLICE OFFICERS 1-3 acting intentionally, maliciously and without justification or probable cause, caused to be filed an accusatory instrument and otherwise brought criminal charges against plaintiff GLORIA CARTAGENAS, who was criminally prosecuted therefore until such charges were dismissed and terminated in her favor.

23. As a result of the foregoing, defendants, acting under color of state law, violated 42 U.S.C. §1983 *et. seq.*, and deprived plaintiff GLORIA CARTAGENAS of rights secured by the Constitutions and laws of the United States and the State of New York including those rights protected by the Fourth and Fourteenth amendments, her right not to be deprived of life, liberty and property without due process of law, and other rights, privileges and immunities guaranteed by the laws and Constitution of the United States and the State of New York.

24. As a result of the foregoing, plaintiff GLORIA CARTAGENAS was caused to suffer loss of liberty and life, substantial emotional, mental and psychological pain, and was otherwise injured.

AS AND FOR A FOURTH CLAIM FOR ASSAULT AND BATTERY
BY PLAINTIFFS GLORIA CARTAGENAS AND VICTOR RIVERA AGAINST
POLICE OFFICERS REGINALD WILLIAMS & JOHN DOE POLICE OFFICERS 1-3
AND THE CITY OF NEW YORK

25. Plaintiffs repeat and reallege each and every allegation contained in the preceding paragraphs as if fully set forth herein.

26. As a result of the foregoing, defendants intentionally placed GLORIA CARTAGENAS and VICTOR RIVERA in apprehension of imminent harmful contact, and defendants, in a hostile manner, and without the consent of plaintiffs GLORIA CARTAGENAS, and VICTOR RIVERA intentionally caused harmful bodily contact with GLORIA CARTAGENAS and VICTOR RIVERA as described herein.

27. As a result of the foregoing, plaintiffs were caused to suffer grievous bodily harm, substantial physical, emotional, mental and psychological pain, and was otherwise injured.

**AS AND FOR A FIFTH CLAIM FOR FALSE ARREST BY PLAINTIFF GLORIA
CARTAGENAS AGAINST POLICE OFFICER REGINALD WILLIAMS & JOHN DOE
POLICE OFFICERS 1-3 AND THE CITY OF NEW YORK**

28. Plaintiffs repeat and reallege each and every allegation contained in the preceding paragraphs as if fully set forth herein.

29. On or about October 21, 2007, defendants, acting without probable cause, intentionally and falsely arrested and imprisoned GLORIA CARTAGENAS.

30. As a result of the foregoing, plaintiffs were caused to suffer grievous bodily harm, loss of liberty and life, substantial physical, emotional, mental and psychological pain, and were otherwise injured.

**AS AND FOR A SIXTH CLAIM FOR MALICIOUS PROSECUTION BY PLAINTIFF
GLORIA CARTAGENAS AGAINST POLICE OFFICER REGINALD WILLIAMS &
JOHN DOE POLICE OFFICERS 1-3 AND THE CITY OF NEW YORK**

31. Plaintiffs repeat and reallege each and every allegation contained in the preceding paragraphs as if fully set forth herein.

32. On or about October 21, 2007, defendants, acting intentionally, maliciously and without justification or probable cause, caused to be filed an accusatory instrument or otherwise brought criminal charges against plaintiff GLORIA CARTAGENAS who was criminally prosecuted therefore until such prosecution was terminated in her favor.

33. As a result of the foregoing, plaintiff GLORIA CARTAGENAS was caused to suffer loss of liberty and life, substantial emotional, mental and psychological pain, and was otherwise injured.

**AS AND FOR A SEVENTH DERIVATIVE CLAIM FOR LOSS OF SERVICES BY
PLAINTIFF VICTOR RIVERA AGAINST ALL DEFENDANTS**

34. Plaintiffs repeat and reallege each and every allegation contained in the preceding paragraphs as if fully set forth herein.

35. As a result of the foregoing conduct of Defendants, GLORIA CARTAGENAS was and continues to be unable to perform those services a wife would normally perform for her husband VICTOR RIVERA.

36. As a result of the foregoing, Plaintiff VICTOR RIVERA was caused to suffer damages.

WHEREFORE, plaintiffs demand the following relief jointly and severally against all of the defendants:

- a. Compensatory damages;
- b. Punitive damages;
- c. The convening and empaneling of a jury to consider the merits of the claims herein;
- d. Costs and interest and attorney's fees;
- e. Such other and further relief as this court may deem appropriate and equitable.

Dated: New York, New York
May 20, 2008

Yours, etc.,

Law Office of Carmen S. Giordano

Attorney for Plaintiffs

By: _____
Carmen S. Giordano (CSG-3927)
225 Broadway, 40th Floor
New York, NY 10007
(212) 406-9466